IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 3420 of 2005

Maru Medical and General Stores ..Petitioner

vs.

State of Maharashtra & Ors. ..Respondents

Shri H.V.Kode for petitioner
Shri V.P.Malvankar, A.G.P. for respondents.

CORAM: A.P.SHAH &
Dr.D.Y.CHANDRACHUD JJ.
13th June, 2005

P.C.

1. Rule. Respondents waive service.

2. By consent, rule is made returnable forthwith.

3. The petitioner is a partnership firm carrying on business of medical and general stores. It has been issued licence under the Drugs and Cosmetics Act, 1940. It appears that an officer from the office of respondent no.2 visited the petitioner's shop on 2nd April, 2002. During this visit certain irregularities were noticed and a report was made to respondent no.2. On the basis of this report, respondent no.2 issued a show cause notice dated 10th April, 2002 alleging breach of the terms and conditions of the licence on the part of the petitioner and after considering the reply filed by the petitioner by order dated 24th May, 2002

licence was suspended for a period of 30 days from 1st July, 2002 to 30th July, 2002.

4. Aggrieved by the order of respondent no.2 the petitioner preferred appeal before the Minister, Food and Drugs Department, Govt.of Maharashtra which came to be dismissed vide order dated 24th August, 2004. The petitioner challenged this order in Writ Petition No.7981 of 2004. The said writ petition was disposed of vide order dated 1st November, 2004 and the order of the Appellate Authority was set aside and the Appellate Authority was directed to grant hearing to the petitioner and to decide the appeal afresh in accordance with law. Pursuant to the order passed by the Division Bench the Appellate Authority heard the petitioner and vide order dated 8th April, 2005 dismissed the petitioner’s appeal.

5. It is seen that the Appellate Authority has passed the order without assigning any reasons. The appellate authority has merely observed that the order of suspension has been retained. We are unable to appreciate approach of the Appellate Authority. The order suspending licence has a serious consequence. When the appeal is preferred against the order suspending the licence then the Appellate Authority is expected to apply his mind and pass a reasoned order in the appeal. However,

it is seen from the record that almost all the lapses are admitted by the petitioner. In fact before the learned Vacation Judge the petitioner has agreed to keep the medical shop closed for 10 days from 25th May, 2005. We are informed that the shop remained closed during the said period. Having regard to the facts and circumstances of the case and also having regard to the fact that the lapses on the part of the petitioner are mostly of technical nature we feel that ends of justice would be served if the period of suspension is reduced to 10 days. The order of the licencing authority to stand modified to the extent that the period of suspension shall be for a period from 25th May, 2005 to 5th June, 2005. Rule is made partly made absolute in terms of the above order. No order as to costs.